

REMARKS

Favorable reconsideration of this application is respectfully requested, wherein Claims 1, 5, 8 and 10 have been amended.

As an initial matter, Applicant is submitting the references discussed in the specification. With regard to the non-English language document, Applicant directs the Examiner's attention to the specification regarding the relevance of these particular documents. Accordingly, Applicant respectfully requests consideration of these documents.

On page 2 of the Official Action, the abstract and specification stand objected to on minor grounds. As a result, a substitute abstract is being submitted on a separate sheet attached hereto, and the specification has been revised where indicated. Accordingly, withdrawal of the objections to the specification is respectfully requested.

On page 3 of the Official Action, the Examiner provides suggestions for amending Claim 10. As a result, Applicant has amended claim 10 to include the claim suggestions offered by the Examiner.

On page 4 of the Official Action, Claims 1-10 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out an distinctly claim the subject matter to which Applicant regards as the invention. As a result, Applicant has amended Claim 1, 5 and 8 to remove the indefiniteness noted by the Examiner. With regard to the phrase "can be connected", the Examiner has requested an explanation of under which condition the compressor line is connected to an intake duct, and under which condition the compressor line is not connected to an intake duct. Applicant submits that the intake duct is not part of the claimed

device. However, once the turbocharger is mounted onto the engine, the compressor line is always connected to the intake duct. As such, Applicant has changed the phrase "can be connected" to "is connectable" with regard to describing the connection between the compressor and intake duct. Accordingly, withdrawal of the rejections under 35 U.S.C. §112, second paragraph, is respectfully requested.

Claims 1-6 and 8-10 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,551,977 to *Matsumura*. Claim 7 stands rejected under 35 U.S.C. §103(a) as being unpatentable over *Matsumura* in view of U.S. Publication No. 2003/0115870 A1 to *Finger et al.*

A disclosed, non-limiting embodiment of the present invention pertains to a method for operating an exhaust turbo charger for charging an internal combustion engine. A main flow of a gas is supplied to a compressor of the exhaust gas turbo charger via an intake line. The main flow is compressed in the compressor by means of a compressing element and is led via a compressor line into an intake duct of the internal combustion engine. The gas quantity transferred to combustion chambers of the internal combustion engine via the intake duct are regulated by means of a throttle valve arranged between the compressor and the combustion chambers. A vacuum occurs in the region downstream of the compressing element and the throttle valve as compared with a pressure in the intake line upstream of the compressing element. This vacuum is utilized in order to generate a bypass flow which is branched off upstream of the compressing element from the main flow led via the compressing element. The bypass flow flows around the compressing element from a side of the compressing element located upstream to a side of the compressing element located downstream and is returned to the main flow

downstream of the compressing element and upstream of the throttle valve. These features are defined in independent Claim 1. Similar features are defined in independent Claims 5 and 8.

The Examiner relies on the patent to *Matsumura* for disclosing all the features of independent Claims 1, 5, and 8. However, the internal combustion engine described in *Matsumura* does not include the patentable features of independent Claims 1, 5, and 8. In particular, *Matsumura* discloses an intake air bypass passageway 26 provided to supply intake air into the intake air passageway 18 downstream of the throttle valve 20, as shown in Figure 2. As described in column 3, beginning at line 52, when the throttle valve 20 is closed so that vacuum is generated within the intake passageway 18 downstream of the throttle valve 20, the valve member is pushed down to the side of the intake air passageway 18 so as to establish a valve opening mode, thereby allowing air flow in the direction from the air regulator 28 to the intake air passageway 18 downstream of the throttle valve 20. When the throttle valve 20 is widely opened so that positive pressure is generated within the intake air passageway 18 downstream of the throttle valve 20, the valve member 30a is biased to the side of the air regulator 28 by the bypass of the spring 30b to establish a valve closing mode, thereby blocking the intake air bypass passageway 26.

Matsumura does not disclose a method or device for operating an exhaust gas turbo charger in which the bypass flow is returned to the main flow downstream of the compressing element and upstream of the throttle valve. The arrangement of *Matsumura* cannot be used to generate a bypass flow when there is a vacuum between the throttle valve and the compressing element. In contrast, *Matsumura*

only discloses reaction to pressure changes downstream of the throttle valve. As such, *Matsumura* fails to disclose the patentable features of independent Claims 1, 5, and 8.

For at least the foregoing reasons, it is submitted that the method and apparatus of independent Claims 1, 5, and 8, and the claims pending therefrom, are patentably distinguishable over the applied document. Accordingly, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should any questions arise in connection with the application, or should the Examiner believe that a telephone conference would be helpful in resolving any remaining issues pertaining to this application, the undersigned respectfully requests that she be contacted at the number indicated below.

Respectfully submitted,

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